

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED

In the Matter of

DOCKET FILE COPY ORIGINAL

AUG 30 2002

Annual Assessment of the
Status of Competition in
the Market for the
Delivery of Video Programming

)
)
)
)
)
)

MB Docket No. 02-145

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS OF KANSAS CITY CABLE PARTNERS

Kansas City Cable Partners d/b/a/ Time Warner Cable ("KCCP") submits the following reply comments responding to the comments submitted by Utilicorp Communications Services, Everest Connections Corporation and Ex-Op of Missouri, Inc. (collectively "Everest"). Everest operates several cable systems in and around Kansas City, Missouri in direct competition with KCCP. Everest's Comments note that its systems are continuing to grow and expand throughout the various communities it serves, providing vibrant competition to KCCP and other multichannel video programming providers ("MVPDs"). KCCP is responding to this ever-increasing competition from MVPDs in a variety of ways that not only serve to document the presence of "effective competition" in these communities, but also have produced tangible benefits to consumers, including better service, more choices and lower prices.

As it has done in various other proceedings, Everest again complains about certain KCCP pricing and marketing practices, generally referred to as "Win-Back" offers, that discount service packages for former subscribers who now receive service from other providers such as DirecTV, the Dish Network or Everest. These offers are very much intended to induce former subscribers to switch back to KCCP. Significantly, these "Win-Back" offers are not geographically limited and are in fact offered to all former subscribers throughout KCCP's franchise areas. As KCCP

No. of Copies rec'd
List ABCDE

014

has repeatedly explained, these marketing practices are entirely consistent with the Communications Act and the Commission's rules.¹ Indeed, ever-increasing MVPD competition has given rise to various "Win-Back" offers or other such geographically uniform promotions by a broad range of MVPD competitors, including other cable systems operated by Time Warner Cable.

It is both natural and desirable that the multichannel video competitors will develop creative pricing packages and promotional campaigns designed to increase loyalty and satisfaction with their existing subscriber base and to attract customers away from the competition. Thus, KCCP's competitive responses are entirely consistent with economic theory and Congressional intent. Such promotional packages undeniably bring tremendous benefits to consumers. Again, this is precisely the outcome Congress intended when it sought to create a competitive framework for the provision of video services.

Everest also complains about alleged difficulties encountered in accessing MDU buildings, citing certain actions taken by KCCP. As the Commission is aware, its inside wiring rules expressly require an incumbent cable operator such as KCCP to obtain an injunction within 45 days after receipt of notice that a landlord intends to seize the cable operator's home run wiring within the MDU building. Such behavior, designed to protect a cable operator's legal and property rights, is not anticompetitive, but is instead intentionally structured into the inside wiring rules.

Finally, Everest decries exclusive distribution arrangements relating to Metro Sports, a regional, terrestrially delivered programming service. Exclusivity is an integral part of the service's business model, and this exclusivity is not prohibited under the Communications Act or

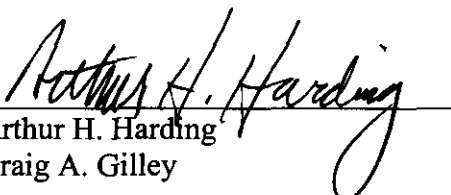
¹ See, e.g., KCCP Response in Docket CSR-5845 (filed February 21, 2002); KCCP Reply in Docket CSR-5711-E (filed August 8, 2001).

the Commission's rules. Metro Sport is and has always been terrestrially delivered within a very limited area and is therefore fully exempt from the program access rules.

In sum, Everest's Comments in this proceeding are yet another in a long series of repetitive submissions demonstrating that Everest has no interest in allowing consumers to benefit from robust competition, but rather Everest merely seeks to impose artificial restraints on incumbents such as KCCP that benefit only Everest.

Respectfully submitted,

KANSAS CITY CABLE PARTNERS

By: 
Arthur H. Harding
Craig A. Gilley

FLEISCHMAN AND WALSH, L.L.P.
1400 Sixteenth Street, NW, Suite 600
Washington, D.C. 20036
(202) 939-7900

Its Attorneys

Dated: August 30, 2002